



State of Washington  
Legislative Budget Committee

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# Hazardous Waste Fees Study

## Report 95-11

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October 16, 1995

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Reporting directly to the legislature, the LBC generally meets on a monthly basis during the interim between legislative sessions.



State of Washington  
Legislative Budget Committee

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# HAZARDOUS WASTE FEES STUDY

## Summary

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**M**andated by law, this study examines two fees, an education fee and a planning fee, that were imposed by the legislature in 1990 to help implement the state's policy of encouraging reductions in the amount of hazardous wastes generated and hazardous substances used. The study focused on issues of fee equity, and also included a more limited review of the programs and specific activities funded by the fees. The fees are administered by the Department of Ecology.

The study identified a number of issues that are addressed in its six recommendations. Three concern the education fee: 1) criteria should be established governing which businesses will be billed for the fee; 2) the department should clearly inform all who are billed that they are entitled to an exemption if they generate no waste; and 3) Ecology should maintain a listing of activities funded so it can be determined whether activities are being proportionately directed to those businesses that pay most of the fees.

Three additional recommendations are made concerning the planning fee: 1) Ecology should determine whether the fee cap is set at a level high enough to recover costs; 2) statute should be amended so that certain thresholds apply to both hazardous wastes and toxic emissions to eliminate current disparities; and 3) the department should develop a formal listing of the program's resource needs to help ensure that statutory limitations on the use and amount of fee revenues are being adhered to.

## BACKGROUND

In 1990, the legislature passed legislation implementing recommendations of the Pacific Northwest Hazardous Waste

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## Overview

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## Two fees--a \$35 education fee, and a variable planning fee

Advisory Committee. Two main features of the legislation were: 1) establishment of a goal to reduce the generation of hazardous waste in the state by 50 percent by 1995; and 2) a requirement for certain hazardous waste generators and substance users to prepare plans for the voluntary reduction of the use of hazardous substances and the generation of hazardous wastes.

To help pay for waste reduction activities, two annual fees were established: 1) a \$35 education fee assessed against known and *potential* waste generators to help fund general waste reduction activities; and 2) a variable planning fee, capped at \$10,000, assessed against firms required to submit plans.

## THE EDUCATION FEE

As originally enacted, the education fee was assessed "*for the privilege of generating or potentially generating hazardous waste in the state.*" Known generators were defined as businesses that were already subject to other specified state and federal reporting requirements. Currently, there are about 7,000 known generators within the state.

Potential generators were defined as those businesses whose primary business activities were identified by the department to be "likely to generate any quantity of hazardous waste." The department's basic method for identifying likely generators has been to assume that if a business is in the same Standard Industrial Classification (SIC) code as a known generator, then it too is likely to generate some quantity of waste.

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## Education fee has been controversial

The fee has been somewhat controversial because the department's definition of potential generators has often been at odds with that of many of the businesses included within the definition. A one-year moratorium on collection of the fee from potential generators was enacted in 1994. During the course of this study, the 1995 Legislature amended the statute to delete references to potential generators.

**Who Pays the Fee:** Over 100,000 businesses were included in Ecology's initial listing of SIC codes that were to be subject to the fee. By 1993, that number had been narrowed down to just over

50,000, spread amongst 437 SIC codes, and by 1995, to 34,000 businesses amongst 289 sic codes.<sup>1</sup>

In 1995, 65 percent of the businesses subject to the fee were concentrated in just 18 SIC codes. Two features distinguish these codes. First, their proportion of *known* waste generators is quite low; combined, the figure is 10 percent, but for 9 of the codes, it is less than 3 percent. Consequently, the balance of the businesses are billed for the fee based only on the department's assessment of their *potential* to generate waste. Second, the known generators within the SIC codes are responsible for generating only a minute fraction; less than 0.09 percent of the waste generated within the state.

**How SIC Codes Were Selected:** The primary factors considered by the program in targeting businesses to be assessed the fee have been the number of known generators by SIC code and the volume of waste generated. At no time, however, have specific selection criteria or thresholds been established (e.g., a *set* percentage of known generators, or a minimum volume of waste). Instead, the program has generally relied on the expertise of employees with hazardous waste management experience, and feedback from fee payers.

Without criteria, it is not apparent why the businesses in some SIC codes are billed for the fee while those in other SIC codes are not. We note, for example, that there are at least 260 SIC codes that have some number of known waste generators, but are not on the list; as a result, the known generators in such SIC codes will be billed, but other businesses who may generate waste will not be notified that they are subject to the fee.

A change made in 1995 is that businesses will be required to pay only if they actually generate some quantity of waste. Although they will still automatically be billed if they are in a designated SIC code, the businesses will be exempted if they provide a certified statement saying that they generate no waste. At the time they are billed, however, businesses are not clearly informed that such an

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Most  
businesses  
billed based  
on *potential*  
to generate  
waste

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No formal  
criteria

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<sup>1</sup> Businesses are exempt from the fee if their gross income is less than \$12,000 per year. In 1993, approximately half of the businesses in the SIC codes included were under that threshold.

option is available to them. We believe this raises issues of equity, since only businesses that take the initiative to question the department will have the opportunity to claim the exemption.

*The report recommends that specific criteria be established governing which businesses will be billed for the education fee.*

*It also recommends that for all future education fee billings, Ecology should clearly inform all who are billed that they are entitled to an exemption if they do not generate any waste.*

**Program Revenues and Activities:** Fee revenues are used primarily to support the Office of Waste Reduction, which is charged with providing advice and consultation to waste generators and hazardous substance users on reduction techniques. Activities include providing on-site technical assistance to small businesses, conducting workshops, doing phone consultations, developing brochures, and providing grant money to local governments.

Little information is available on the specific and major activities that have been funded, along with their corresponding target audience. As a result, it is uncertain whether fee revenues are being proportionately directed to those businesses which pay a majority of the fees. To promote accountability, we believe the department should be able to provide such information to fee payers.

*The department should maintain a listing of the major activities funded by education fee revenues in enough detail that the businesses most likely to benefit can be ascertained.*

## THE PLANNING FEE

With some exceptions, the law requires hazardous waste generators that generate more than 2,640 pounds of hazardous waste per year, and each hazardous substance user, to prepare a plan for the *voluntary* reduction of the use of hazardous substances and the generation of hazardous wastes. The plans cover a five-year period; at the end of that time, they must be updated. Currently there are 652 entities that are required to prepare plans.

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Unknown if  
revenues  
proportion-  
ately  
directed to  
those who  
pay



Planning fee revenues are to be used for "... plan review, technical assistance to facilities that are required to prepare plans, other activities related to plan development and implementation, and associated indirect costs." The total fees collected cannot exceed the department's cost of implementing the planning program, or \$1 million. The fee for any one facility cannot exceed \$10,000. Fees for facilities generating less than 4,000 pounds of waste cannot exceed \$50.<sup>2</sup>

***How the Fee is Calculated:*** The planning fee is based on the reported amounts of three component parts: 1) dangerous wastes; 2) extremely hazardous wastes (which are multiplied by a factor of ten to compensate for a greater risk to the environment); and 3) toxic emissions. Combined, these equal the total amount of "risk pounds."

A rate per risk pound is then calculated, taking into consideration statutory limits on both the maximum amount of revenue that can be obtained, and the maximum individual fee. This rate per risk pound is then applied to the number of pounds reported by each facility to determine the amount it will be billed, except for statutory limits.

The fee cap creates an extreme disparity in the actual rates billed on a per-risk pound basis. The official 1994 uncapped rate is equivalent to \$130 per 10,000 pounds of waste. That is the rate most firms are billed. Because of the fee cap, however, the comparable amount for the largest waste generating firm is only \$0.02. In total, 63 firms have their fees capped at the maximum amount.

This disparity may or not be problematic insofar as the purpose of the fee is to cover the department's cost of implementing the planning program. Program staff, however, could provide no insight into whether the amount of staff resources typically devoted to different sized firms is at all proportionate to the fees they pay. Consequently, it is unknown whether firms that pay a capped fee are subsidizing smaller firms, or are being subsidized by them. To

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Planning fee  
capped at  
\$10,000

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Cap creates  
disparity in  
rates paid  
on a "per-  
pound"  
basis

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<sup>2</sup> Statute authorizes the department to adjust all fees to account for inflation. In 1994, the maximum levels were \$1,094,300 for total program revenues, and \$10,943 and \$55 for individual facilities.

our knowledge, the \$10,000 fee limit was selected arbitrarily. Currently, there is no way of knowing whether it is a fair amount or not.

*The Department of Ecology should conduct an internal assessment to determine if the current fee limit is or is not sufficient to cover the costs associated with providing services to those firms that pay the capped fee.*

If the current limit is found to be insufficient, the report further recommends that Ecology propose legislation for the 1996 Legislature to increase the fee limit to an appropriate level. This would have the effect of lowering the fee rate for non-capped firms.

Additional  
disparities  
related to  
how "toxic  
emissions"  
are  
considered

An additional concern is that although the fee formula is based on both the amount of waste generated *and* toxic emissions, the 4,000 pound threshold—under which firms pay a maximum fee of \$50—refers only to the amount of *wastes generated*. This can lead to substantial disparities in the fees paid by otherwise similar companies as is shown in the body of the report.

Program staff said that to their knowledge, basing the threshold solely on the amount of wastes generated had no programmatic basis. Our analysis indicates that had the threshold applied to both wastes generated *and* toxic emissions in 1994, the total fiscal impact would have been approximately \$41,000; with some firms paying more and others paying less than they actually did. The overall revenue effect would likely be neutral, however.

*The report recommends amending statute so that the 4,000 pound threshold applies both to the amount of hazardous wastes generated and the amount of toxic emissions, either separately or in combination.*

**Resource and Revenue Needs:** Statute directs that planning fee revenues are to be used only for planning related activities. However, because these revenues are combined with education fee revenues in a single account, and because the program does not track planning related expenditures separately, there is no way to ensure that this restriction is being adhered to.

A second restriction is that total fee revenues cannot exceed the department's cost of implementing the program, or \$1 million

(adjusted for inflation). At the beginning of this study, however, the program had no formal listing of its resource or revenue needs. Instead, its formula for calculating the fee rate, and thus the amount of revenue, is simply predicated upon obtaining the maximum \$1 million figure.

The total resource and corresponding revenue needs for the program have not been clearly identified or justified. Program staff reviewed a model we had developed in an attempt to estimate resource needs, and submitted their own revised version. In general, their time requirement figures were higher than we had used, and they included other activities and staffing needs that we had not identified.

This estimate by the program was done quickly, and in response to our request for the department's perspective. Although we appreciate the program's responsiveness, we believe a more rigorous assessment of its resource and revenue needs is warranted in order to ensure that the program is in compliance with statutory requirements.

*Ecology should develop a formal listing and explanation of resource and revenue needs for the program.*

**Program Effectiveness and Monitoring:** Overall compliance with the planning requirements appears to be quite good. The waste reduction goals established by the largest firms in the state amounted to a combined total of 31 percent. While this would appear to represent a substantial reduction if implemented, it obviously falls far short of the state's overall goal of a 50 percent reduction. This may argue either for intensifying waste reduction efforts, or for establishing a more realistic goal.

It should be kept in mind that the overall state goal, as well as the individual goals established by businesses in their plans, are based on a pound-for-pound percentage reduction. The department's monitoring activities are similarly focused.

This type of comparison does not take into consideration differences in the toxicity levels of differing types of wastes. Because these levels can vary substantially, this type of monitoring provides only a very gross measure of program impact.

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Resource  
and revenue  
needs not  
clearly  
identified

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Overall  
waste  
reduction  
goal not  
likely to be  
met

## AGENCY RESPONSE

As noted in Appendix 2, the Department of Ecology concurs or partially concurs with the report's six recommendations.

Because of concerns regarding limitations associated with the department's program monitoring activities, a seventh recommendation had originally been included in our preliminary report; that being that the department study the feasibility of implementing a system that takes into consideration differences in the toxicity levels of differing types of waste.

The department did not concur with this recommendation. Through subsequent discussions with its staff, it was determined that a monitoring system of this type would require more information on the exact chemical composition of the waste than is now required to be reported. Sufficiently detailed chemical-specific information is currently available only for certain types of releases that are required to be reported pursuant to federal regulations. In total, these releases constitute only about one-tenth of one percent of the total amount of waste generated.

Although our concerns regarding the inadequacy of the current monitoring system remain, it does not appear practical at this point to change state reporting requirements. Consequently, this recommendation has been deleted from the report.

## ACKNOWLEDGMENTS

This report was prepared by Robert Krell, under the supervision of Bob Thomas. We appreciate the assistance provided by staff of the department's Hazardous Waste and Toxic Reduction program.

Cheryle A. Broom  
Legislative Auditor

*On October 16, 1995, this report was approved by the Legislative Budget Committee and its distribution authorized.*

*Senator Al Bauer  
Chair*

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# RECOMMENDATIONS

## Summary

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### *Recommendation 1*

The Department of Ecology should establish specific criteria governing which businesses or entities will be billed for the education fee.

Implementation Date:	January 1996
Fiscal Impact:	None
Legislation Required:	No

### *Recommendation 2*

For all future education fee billings, the department should clearly inform all who are billed that they are entitled to an exemption if they do not generate any waste, and provide instructions on how to apply for such an exemption.

Implementation Date:	January 1996
Fiscal Impact:	None
Legislation Required:	No

### *Recommendation 3*

The department should maintain a listing of the major activities funded by education fee revenues in enough detail that the businesses most likely to benefit can be ascertained.

Implementation Date:	January 1996
Fiscal Impact:	None
Legislation Required:	No

***Recommendation 4***

The department should conduct an internal assessment to determine if the current fee limit is sufficient to cover the costs associated with providing services to those firms that pay the capped fee. If it finds that it is not, the department should propose legislation for the 1996 Legislature to increase the fee limit to an appropriate level.

Implementation Date:	January 1996
Fiscal Impact:	Potentially (depends on department's findings)
Legislation Required:	Potentially (depends on department's findings)

***Recommendation 5***

RCW 70.95E.030 should be amended so that the four thousand pound threshold applies both to the amount of hazardous wastes generated and the amount of toxic emissions, either separately or in combination.

Implementation Date:	1996 Legislative Session
Fiscal Impact:	Some firms would pay more, while others would pay less. The overall revenue impact, however, would be neutral.
Legislation Required:	Yes

***Recommendation 6***

The department should develop a formal and itemized listing or inventory of resource needs for the planning program, that takes into consideration fluctuations resulting from changes in the number of plans being developed and submitted each year.

Implementation Date:	January 1996
Fiscal Impact:	None
Legislation Required:	No

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# BACKGROUND

## Chapter One

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**I**n 1990, the legislature established a policy to encourage reduction of hazardous waste generation and hazardous substance use whenever technically and economically practicable. The two primary features of ESHB 2390 were to modify the duties of the Office of Waste Reduction, and to require certain hazardous waste generators and hazardous substance users to prepare plans for the voluntary reduction of hazardous substance use and hazardous waste generation.

Two hazardous waste fees were imposed: 1) an annual \$35 fee, known as the education fee, on all known and potential waste generators; and 2) a planning fee on all facilities required to submit plans. Subject to appropriation, the education fee is to be used to generally support the activities of the Office of Waste Reduction, and the planning fee for plan review and technical assistance to facilities required to submit plans. Both fees are deposited in the Hazardous Waste Assistance Account, which was created by the act. Exhibit 1 provides a summary overview of the two fees.

This study was mandated by RCW 70.95E.070, which directs the Legislative Budget Committee to "... review [these two fees] and report its findings to the legislature not later than July 1, 1995. This study examines both fees, with a major focus on issues of equity. It also includes a more limited review of the program and specific activities funded by the fees.

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## Introduction

**Exhibit 1**  
**Overview of Education and Planning Fees**

Feature	Hazardous Waste Education Fee	Hazardous Waste Planning Fee
Fee Amount	\$35 annually	Variable, from \$55 to \$10,943 annually ( in 1994).
Number of payers	Approximately 20,000	Approximately 480
Revenue generated	Approximately \$700,000 annually	Approximately \$1.2 million annually
Assessed against	Prior to 1995 session, assessed against known and <i>potential</i> hazardous waste generators. Reference to potential generators has now been deleted.	Known hazardous waste generators who are required to submit plans for the "voluntary" reduction of hazardous waste use and hazardous waste generation.
Basis for calculating amount	Not applicable--flat fee.	Based on net pounds of: 1) dangerous waste; 2) extremely hazardous waste; and 3) toxic emissions.
Statutory fee constraints	Businesses whose gross incomes are less than \$12,000 per year are exempt.	1) Total fees cannot exceed department's cost of implementing planning program, or \$1 million, adjusted for inflation; 2) individual fees cannot exceed \$10,000, adjusted for inflation; 3) the maximum fee for a facility generating less than 4,000 pounds of waste is \$50, adjusted for inflation; and 4) other minor constraints.
Use of revenues	Subject to appropriation, fees are to support the activities of the Office of Waste Reduction, including the provision of: 1) technical assistance and compliance education to firms that generate hazardous waste; 2) grants to local governments; and 3) other miscellaneous activities.	Subject to appropriation, fees are to be used for plan review, technical assistance to facilities required to prepare plans and annual progress reports, and other activities related to plan development and implementation.



## LEGISLATIVE AND PROGRAM HISTORY

The Office of Waste Reduction was established within the Department of Ecology in 1988 to encourage the voluntary reduction of waste. In the following year, the Pacific Northwest Hazardous Waste Advisory Council, which included the Governors of Washington, Oregon, Idaho, and Alaska, passed a resolution which, among other things, endorsed: 1) adoption of a goal to reduce the generation of hazardous waste by 50 percent by 1995 (specifically as a policy target rather than a regulatory requirement); and 2) waste reduction planning for hazardous waste generators. These features, as well as other recommendations of the Council, were incorporated into ESHB 2390, which passed the legislature in 1990.

Since its enactment, the \$35 education fee has been controversial because it has been assessed against both known and *potential* generators of waste. The Department of Ecology's definition of what constitutes a potential generator has often been at odds with that of many of the businesses included within the definition.

In 1994, the legislature imposed a one-year moratorium on collection of the fee from potential generators. In 1995, the legislature amended the statute to delete references to potential generators. Rather, the fee will be assessed against hazardous waste generators, which is defined as "all persons whose primary business activities are identified by the department to generate any quantity of hazardous waste in the calendar year for which the fee is imposed."

In contrast, to our knowledge, the planning fee has not engendered any controversy.

## PROGRAM OVERVIEW

**Education Fee:** As noted, the education fee is used principally to support the activities of the Office of Waste Reduction. That office is charged with providing advice and consultation to waste generators and hazardous substance users on hazardous substance use reduction and waste reduction techniques. Primary activities include providing on-site technical assistance to small businesses,

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Goal to  
reduce  
hazardous  
waste by 50  
percent

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Education  
fee funds  
waste  
reduction  
activities

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## Planning fee charged against businesses required to submit plans

conducting workshops, doing phone consultations, developing and disseminating brochures, and providing grant money to local governments.

***Planning Fee:*** With some exceptions, the law requires hazardous waste generators that generate more than 2,640 pounds of hazardous waste per year, and each hazardous substance user, to prepare a plan for the *voluntary* reduction of the use of hazardous substances and the generation of hazardous wastes. Currently there are 652 entities that are required to prepare plans.

The plans are comprehensive, with statute specifying the various factors and analyses to be included. They are not considered public records; companies have the option of only submitting an executive summary of the plan to the department. The department *may* review any plan or summary to determine its adequacy, but such determination can only be based on whether it was completed in accordance with statutory requirements; it cannot be based on a qualitative review.

The plans cover a five-year period. At the end of that time, they are required to be updated. Annual progress reports are also required. The program was phased in in what were referred to as “waves,” with the largest generators being required to submit their plans in 1992, and smaller or new generators in the years thereafter.

## BUDGET

The education and planning fees, and any penalties imposed, are deposited in the Hazardous Waste Assistance Account (HWAA). The program does not keep track of expenditures separately.

Exhibit 2 provides an overview of fee revenues, combined expenditures, and legislative appropriation levels. It should be kept in mind that because fee collection cycles cross fiscal year lines, the revenues shown as being collected in a given year do not represent the amount collected from a specific fee billing.

**Exhibit 2**

**Hazardous Waste Assistance Account  
Education and Planning Fees  
Appropriations, Revenues and Expenditures  
FY1991 - FY1995**

	FY 91	FY 92	FY 93	FY 94	FY 95 (est)
Appropriation	\$ 2,317,000	\$5,543,000		\$4,112,000	
Education Fee Revenue	\$ 1,695,707	\$ 820,661	\$ 800,361	\$ 172,931	\$ 585,217
Planning Fee Revenue	\$ 303,931	\$ 755,189	\$ 1,400,771	\$ 846,303	\$ 1,250,331
Total Revenues	\$ 1,999,638	\$ 1,575,850	\$ 2,201,132	\$ 1,018,234	\$ 1,835,548
Total Expenditures	\$ 703,115	\$ 1,822,741	\$ 2,510,048	\$ 1,316,084	-
Balance	\$1,296,523	\$ 1,049,632	\$ 740,716	\$ 442,866	-

Source: Legislative Appropriations, Department of Ecology data.

It should be noted that the expenditures shown above have been modified. Originally, only \$800,000 was expended from the HWAA in FY1992, while \$3.5 million was expended in FY1993. In 1993, however, just over \$1 million in expenditures that were originally charged in 1992 to the State Toxics Control Account were transferred to the HWAA. Program staff said this occurred because a shortfall had developed in the State Toxics Control Account, and it was subsequently determined that these expenditures could have been funded through the HWAA.

Program staff estimated that State Toxic Control funds (which consist primarily of revenues raised from the hazardous substance tax imposed under RCW 82.21.030—primarily petroleum products) account for approximately 54 percent of the total amount of funds devoted to hazardous waste reduction and pollution prevention activities. HWAA funds account for 42 percent, while 4 percent come from federal grants.

Although it is not evident in Exhibit 2 (because of the retroactive transfer of expenditures to the State Toxics Control Account), the HWAA maintained a rather high monthly cash balance during its first three years, averaging between \$1.3 million and \$2.2 million.

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**Funds  
transferred  
between  
accounts**

## SIMILAR PROGRAMS IN OTHER STATES

According to a report by the United States General Accounting Office, only one state does not have some type of generalized “pollution prevention” program. As described in the report, most of these are similar to the education fee program in Washington.<sup>1</sup> The same report indicated that these programs typically exist through a “patchwork funding approach.” Department of Ecology staff stated that to their knowledge, most other states did not have a fee that was comparable to our education fee.

Through our research, we came across differing reports as to the number of states that had similar facility planning requirements. It appears that up to 20 states have some type of comparable requirement. In as many as half of these states, however, the requirement only applies to hazardous substance users, as opposed to hazardous waste generators.

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<sup>1</sup> *POLLUTION PREVENTION: EPA Should Reexamine the Objectives and Sustainability of State Programs*, United States General Accounting Office, GAO/PEMD-94-8, January 1994, page 19.

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# THE EDUCATION FEE

## Chapter Two

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**I**n addition to providing background information on the fee—including a statutory change made in 1995—this chapter reviews the number and types of businesses that pay the fee and how they are selected. It concludes by examining program revenues and expenditures.

Recommendations are made to address three major issues: 1) there are no formal criteria for determining which businesses will be billed for the fee; 2) businesses are not clearly informed that they are now exempt from the fee if they generate no waste; and 3) it cannot be determined whether revenues are being proportionately directed to those businesses that pay a majority of the fees.

### BACKGROUND

As originally enacted in 1990, the \$35 per year education fee was imposed on businesses *“for the privilege of generating or potentially generating hazardous waste in the state.”* It was to be assessed on every known generator, and every potential generator of hazardous waste with a gross annual income of at least \$12,000.

Known generators were defined as those businesses that had *“notified the department . . . and received an EPA/state identification number”* (a number assigned to businesses that are also regulated by the federal government). Potential generators were defined as those businesses whose primary business activities were identified by the department to be *“likely to generate any quantity of hazardous waste.”* Ecology’s basic method for identifying likely generators has been to assume that if a business is in the same Standard Industrial Classification (SIC) Code as a known generator, then it too is likely to generate some quantity of waste.

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### Overview

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Originally imposed against known and potential generators

## Statute amended

During the course of this study, the 1995 Legislature passed SSHB 1162, which deleted references to both "known" and "potential" generators. Under the new law, the education fee will be assessed against "hazardous waste generators," which are defined as "all persons whose primary business activities are identified by the department to generate any quantity of hazardous waste in the calendar year for which the fee is imposed. All such generators will be exempt from the fee if their gross income is less than \$12,000 per year.

Although businesses will be exempt from the fee if they generate no waste, the department will still use SIC codes to identify likely generators, and businesses in those SIC codes will automatically be billed.

## WHICH BUSINESSES PAY THE FEE

Over 100,000 businesses were included in Ecology's initial listing of SIC codes that were to be subject to the fee. By 1993, that number had been narrowed down to just over 50,000, spread amongst 437 SIC codes, and by 1995, to 34,000 businesses amongst 289 codes.

Nearly two-thirds of the businesses that are potentially subject to the fee (those that are automatically billed) are concentrated within 18 SIC codes as shown in Exhibit 3.

## Businesses identified by "SIC" code

### Exhibit 3

#### Overview of SIC Codes Billed For Education Fee — 1995

Size Category (# of Businesses Within Each SIC Code)	# of 4-Digit SIC Codes Included	Total # Of Businesses*	Known Generators As a % of All Businesses	Total Tons of Waste Generated
More than 500 (up to 4,431)	18	22,466	10.5%	6,143
From 100 to 499	34	8,433	10.9%	1,369,217
From 10 to 99	110	3,106	35.9%	4,547,856
Less than 10	127	533	81.6%	1,184,890
<b>TOTAL</b>	<b>289</b>	<b>34,538</b>	<b>14.0%</b>	<b>7,108,106</b>

\* Only businesses which have gross incomes of over \$12,000 per year are required to pay the fee. In 1993, approximately 52 percent of the accounts in these Codes were above that amount.

Source: Department of Ecology data.

The 18 codes listed in the first row of Exhibit 3, or the businesses within them, share two other characteristics. First, they tend to have a much lower proportion of *known* generators; thus their corresponding proportion of *potential* or *likely* generators is much higher than in the other codes.<sup>1</sup> Second, they are responsible for generating only a minute fraction of the total waste generated; their combined 6,143 tons is less than 0.09 percent of the total

The 18 SIC codes included in the first category in Exhibit 3 are shown individually in Exhibit 4. In only two of the eighteen codes do known generators constitute a majority of the total number of businesses. In nine codes, known generators account for less than 3 percent of the total. Again, the significance is that the remaining businesses are billed for the fee based only on the department's assessment of their *potential* to generate hazardous waste.

Most  
businesses  
still billed  
on potential  
to generate

#### Exhibit 4

##### Top Eighteen SIC Codes Billed For Education Fee By Number of Businesses — 1995

SIC Code	Title	Total Number of Businesses	Known Waste Generators	Generators As a % Of All Businesses	Tons of Waste Generated
7538	General auto repair shops	4,431	519	11.7%	429
1721	Painting and paper hanging	3,652	59	1.6%	133
7532	Top and body repair/paint shops	1,835	369	20.1%	277
5084	Industrial machinery and equipment	1,459	22	1.5%	31
1542	Nonresidential construction	1,390	21	1.5%	6
5541	Gasoline service stations	1,139	644	56.5%	156
1629	Heavy construction, NEC*	1,057	23	2.2%	29
3599	Industrial Machine, NEC*	1,041	28	2.7%	112
3732	Boat building and repairing	853	54	6.3%	77
1623	Water, sewer and utility lines	748	12	1.6%	5
2759	Commercial printing, NEC*	695	20	2.9%	26
5191	Farm supplies	649	62	9.6%	3
2434	Wood kitchen cabinets	636	24	3.8%	38
5511	New and used car dealers	596	352	59.1%	1,226
2511	Wood household furniture	592	3	0.5%	3
7539	Automotive repair shops, NEC*	576	109	18.9%	55
5013	Motor vehicle supplies/new parts	563	28	5.0%	13
5093	Scrap and waste materials	554	12	2.2%	3,522
<b>Sub-Total for Top 18</b>		<b>22,466</b>	<b>2,361</b>	<b>10.5%</b>	<b>6,143</b>

\* NEC = Not elsewhere classified  
Source: Department of Ecology Data

<sup>1</sup> Program staff point out that in addition to the formally "known" generators who are required to report, there is another universe of waste generators that does exist, even though it is not subject to reporting or other regulatory requirements. Included in this group are small quantity generators, conditionally exempt generators, and household hazardous waste generators.

## WHICH BUSINESSES PRODUCE MOST OF THE WASTE

The vast majority of the state's hazardous waste is produced by a relatively small number of businesses. Exhibit 5 shows the top ten waste-producing SIC codes.

### Exhibit 5

#### Top Ten SIC Codes by Amount of Waste Generated — 1993

SIC Code	Title	Total # Of Accounts	Known Waste Generators	Generators As a % Of All Accounts	Tons of Waste Generated	Cumulative % Of All Waste Generated
2911	Petroleum refining	11	9	81.8%	12,845,873	79.18%
3728	Aircraft parts/equipment, NEC*	100	61	61.0%	1,232,341	86.78%
2812	Alkalies and Chlorine	3	3	100.0%	500,688	89.87%
2611	Pulp mills	7	14	200.0%**	380,801	92.21%
3471	Plating and polishing	49	37	75.5%	281,473	93.95%
3674	Semiconductors/related devices	15	4	26.7%	263,345	95.57%
3679	Electronic components, NEC*	35	9	25.7%	144,822	96.46%
3721	Aircraft	16	21	131.3%**	125,264	97.24%
3339	Primary nonferrous metals, NEC*	4	2	50.0%	115,136	97.95%
3672	Printed circuit boards	32	14	43.8%	55,214	98.29%
Sub-Total for Top 10		272	174	64.0%	15,944,957	98.29%

\* NEC = Not elsewhere classified

\*\* It is unknown why the number of generators is listed as being greater than the number of accounts

Source: Department of Ecology data

## HOW SIC CODES WERE SELECTED

As noted previously, the Hazardous Waste Reduction Act gave the department the authority and responsibility to identify which businesses were likely to generate any quantity of hazardous waste; that is, the potential generators who prior to 1995 constituted most of the fee payers.

No criteria to guide decision-making process

According to program staff, the factors considered in targeting the businesses that were to be assessed the fee were: 1) the number of known generators by SIC code, and 2) the volume of waste generated. Although early on it convened an advisory committee and held public hearings concerning the fee, at no time did the department establish any specific criteria or thresholds to guide the decision-making process.

Program staff also said that the fiscal note that was prepared for the original legislation anticipated that the number of fee payers



would total approximately 100,000.<sup>2</sup> They indicated that when the legislation eventually passed, "it became incumbent upon Ecology to identify that number of fee payers . . ." In written correspondence, they further stated that:

*As one might imagine, a very liberal approach was needed to identify that many potential generators. While hazardous waste generation history was used, no specific threshold levels were established. The expertise of Ecology employees with hazardous waste management experience . . . provided supplemental insights and empirical knowledge that assisted the decision making.*

In a "Program Assessment" prepared for a 1994 advisory work group, the department indicated that "the first billing . . . created an uproar from literally thousands of fee payers who felt the fee should not apply to them." As a result, the original bills were canceled. In the same correspondence noted above, program staff stated that:

*. . . from that point on, the whole focus has been on 'excluding' SIC codes due to a lack of evidence of waste generation. In addition . . . we also agreed to exempt individual businesses from the fee when we were in agreement that they had no potential to generate hazardous waste. We have not, since the start-up of the program, gone back with a new analysis of codes that were not included originally to determine if they now should be . . . [O]ur efforts have been directed towards the exclusion of codes in order to achieve greater acceptability of the fee. This process has utilized feedback from fee payers as a major factor, rather than specific criteria.*

As noted earlier, for 1995 the department dropped 148 of the SIC codes that were included in its 1993 billing. We assume this reflects the same type of winnowing process alluded to above.

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<sup>2</sup> The fiscal note actually estimated 71,500 fee payers. We assume the 100,000 figure refers to the total number of businesses that would need to be identified in order to *net* 71,500 payers, taking into consideration the \$12,000 gross income per year threshold.

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## Businesses can now receive exemption

Another major change implemented for 1995 is that businesses will only have to pay the fee if they actually generate some quantity of waste; that is, they will no longer automatically have to pay the fee just because they are classified within a set SIC code.

As already noted, however, all businesses within a given SIC code will still automatically be billed (excepting those below the \$12,000 threshold). If a business contacts the department claiming that it does not generate waste, the department will send it a "Certification of Non-Generation of Hazardous Waste" form. Completing and signing the certification will exempt the business from the fee.

## CONCLUSIONS AND RECOMMENDATIONS

There were significant problems in the past with the education fee being assessed against businesses that did not generate any wastes. Those problems will be lessened considerably as a result of the statutory change directing that the fee only be assessed against businesses that actually do generate some amount of waste. The department's actions to narrow down the number of SIC codes on the billing list will also be helpful.

In our opinion, however, the absence of specific criteria or thresholds to guide the "SIC code selection process" is a significant shortcoming. We note, for example, that there are at least 260 SIC codes that contain some number of known generators that are not on the list. We do not, however, know what specifically distinguishes those SIC codes, or the businesses within them, from those that are on the list.

In 1994, the department undertook an agency-wide study and review of its fee setting processes. As part of that review, it adopted a number of "fee-setting principles," which were characterized as serving as the foundation for all fee-setting efforts. One of these principles is that "Fee structures and methods should be understandable." To the extent that it is not readily apparent why some businesses receive a bill for the education fee while others do not, we do not believe the fee meets this principle. This issue is addressed in Recommendation 1.

Although we acknowledge the department's efforts to fulfill the directive that the fee only be charged to those businesses that actually generate some amount of waste, we question whether their current method will effectively accomplish that objective.

For 1995, billings were sent out to all accounts in a given SIC code. Included in the billing was a "fact sheet" concerning the fee. In the upper corner of the reverse side of the sheet is a sub-section entitled "Who do I contact if I have a question or I think I have received this bill in error?" A telephone number and address is then provided. It is not clearly stated that businesses have the opportunity to certify that they do not generate waste, and thereby be exempted from the fee.

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Availability  
of  
exemption  
not clearly  
indicated

Program staff indicate many businesses actually do generate some amount of waste, often without even being aware of it. As a result, they wanted to be able to discuss with individual businesses their particular situations *before* allowing them the opportunity to claim the exemption. We understand the seeming reasonableness of this approach. From our perspective, however, the issue is one of equity. Those who see the statement on the fact sheet and follow through by contacting the department are able to be exempted—those who don't, do not have the same opportunity.

In our opinion, a more fair method, and one which would better fulfill legislative direction, would be for the department to notify all businesses "up-front" that they are entitled to an exemption if they do not generate any quantity of waste. To address the department's concern, the fact sheet currently included with the billing could be used to explain some of the more common ways businesses may unknowingly be generating waste.

### ***Recommendation 1***

***The Department of Ecology should establish specific criteria governing which businesses or entities will be billed for the education fee.***

### ***Recommendation 2***

***For all future education fee billings, the department should clearly inform all who are billed that they are entitled to an exemption if they do not generate any waste, and provide instructions on how to apply for such an exemption.***

## PROGRAM REVENUES

**Statutory Limitations:** Pursuant to Chapter 70.95E RCW, funds collected from the education fee are to be deposited in the Hazardous Waste Assistance Account (HWAA), and subject to appropriation used to support the activities of the Office of Waste Reduction which are specified in RCW 70.95C.030.

Revenues  
used to  
fund waste  
reduction  
activities

In general, that office is charged with providing advice and consultation to waste generators and hazardous substance users on hazardous substance use reduction and waste reduction techniques. A number of other miscellaneous, but related duties are also assigned to it. Statute also permits funds in the HWAA to be used for grants to local governments for "small quantity generator technical assistance and compliance education."

**Revenue Amounts and Allocation Process:** The amount of education fee revenue is shown below by fiscal year. (In FY1994, the fee was assessed against known generators only.)

<u>FY91</u>	<u>FY92</u>	<u>FY93</u>	<u>FY94</u>	<u>FY95</u> <u>(est)</u>
\$1,695,707	\$820,661	\$800,361	\$171,931	\$585,217

Because education fee revenues are combined with planning fee revenues within the hazardous waste assistance account, it is impossible to monitor the expenditure of these funds separately.

No criteria  
to guide  
allocation  
process

Further, the department has no specific criteria to guide the allocation of fee revenues. Program staff indicated that when the program was first established, a staffing plan was implemented that reflected the expenditure pattern identified in the original legislative fiscal note, and over time, that evolved into a "current level of operations."

We did note that the amount allocated for grants to local governments has been far less than initially anticipated. In the original fiscal note, which was based on the assumption that there would be 71,500 fee payers, just over two-thirds of the total revenue was earmarked for this purpose. However, according to data provided by program staff, the amount actually devoted to such grants over the first four years has only been 32 percent. This amount has also

varied considerably on a year-to-year basis, ranging from \$64,000 in 1992, to \$759,000 in 1993, and back down to \$280,000 in 1994.

***Actual Activities Funded:*** There is no concise listing of the specific and major activities that have been funded by fee revenues, along with their corresponding target audience. Program staff did provide some information along these lines, but we were generally unable to make clear connections between the activities referenced and the businesses most directly impacted.

According to a 1994 "Program Assessment," 38 percent of education fee revenues have been devoted to what was referred to as "direct client services." This includes on-site technical assistance, workshops, phone consultations, and publications/brochures. Remaining revenues were divided between technical services at 17 percent, grants at 38 percent, and program support at 7 percent. (It is unknown why the percentage amount listed for grants is different than that reported earlier.)

## CONCLUSION AND RECOMMENDATION

Because education fee revenues are combined with planning fee revenues within the hazardous waste assistance account, it is not possible to separately track expenditures for revenues "as a whole." Further, because of a lack of information on the specific activities funded, it is impossible to assess whether fee revenues are being at all proportionately directed to those businesses which pay a majority of the fees.

As noted in the preceding subsection, Ecology undertook an agency-wide study and review of its fee setting processes last year. Another "fee principle" that was adopted as a part of that review was that "[t]he department should be able to identify and to explain the level of program activities provided, full costs of the program, and any fee incentives." We believe this principle extends to being able to provide information to fee payers as to the specific types of services that they receive for their money.

### *Recommendation 3*

*The department should maintain a listing of the major activities funded by education fee revenues in enough detail that the businesses most likely to benefit can be ascertained.*

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Unknown if  
revenues  
proportion-  
ately directed  
to those who  
pay

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# THE PLANNING FEE

## Chapter Three

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**T**his chapter reviews planning requirements and processes, as well as limitations that are placed on fee revenues. It examines how the planning fee is implemented, and shows how disparities sometimes occur. It also reviews program revenues and resource needs, and concludes by examining issues pertaining to program effectiveness and monitoring activities.

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### Overview

Recommendations are made to address four major issues: 1) it is unknown whether the statutory fee cap, which causes great disparities in the fee rates actually paid, is set high enough to recover associated costs; 2) disparities also result from statutory wording that limits the types of waste that are considered in establishing certain fees; 3) the total resource and revenue needs for the program have not been clearly identified; and 4) current monitoring efforts do not take into consideration differences in the toxicity level of various types of waste.

## BACKGROUND

Pursuant to RCW 70.95C.200, all hazardous waste generators that generate more than 2,640 pounds of hazardous waste per year, and each hazardous substance user (with some exceptions), are *required* to prepare a plan for the *voluntary* reduction of the use of hazardous substances and the generation of hazardous wastes.<sup>1</sup> The

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<sup>1</sup> There is a distinction to be made between *hazardous waste generators* and *hazardous substance users*. The latter group is generally defined as those facilities required to report on their use of toxic chemicals under the federal Superfund Amendments and Reauthorization Act (SARA). Of the 652 firms required to submit plans in Washington, 34 are classified as hazardous substance users only, 308 are hazardous waste generators only, and 310 are both substance users and waste generators. A number of states have facility planning requirements that apply *only* to hazardous substance users.

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## Fees used to imple- ment planning program

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Total  
revenues  
cannot  
exceed \$1  
million . . .  
individual  
fees cannot  
exceed  
\$10,000

requirement applies both to private businesses and public entities. A total of 652 entities are currently required to prepare such plans.

RCW 70.95E.030 establishes an annual fee to be paid by all entities required to prepare plans that is to be used, subject to appropriation, " . . . for plan review, technical assistance to facilities that are required to prepare plans, other activities related to plan development and implementation, and associated indirect costs." The total fees collected cannot exceed the department's cost of implementing the planning program, or \$1 million, adjusted for inflation (the 1994 level was \$1,094,300).

On an individual basis, the fee for any one facility cannot exceed \$10,000 (\$10,943 in 1994). Also, fees for facilities generating at least 2,640 pounds of waste, but less than 4,000 pounds, cannot exceed \$50 (\$55 in 1994). Note that this limitation refers only to the pounds of *waste generated*, and does not reference either the amount of *hazardous substances used* or the amount of toxic emissions. Facilities may use thousands of pounds of hazardous substances, or release thousands of pounds of emissions, but if they generate less than 4,000 pounds of waste, their fee cannot exceed the \$50 limit.

## OVERVIEW OF THE PLANNING PROCESS AND REQUIREMENTS

The facility planning requirements are perhaps the centerpiece of the state's efforts to achieve the statutorily-established goal of reducing the generation of hazardous waste by 50 percent by 1995. Although the facility planning requirements are mandatory, implementation of the plans is voluntary. A study of similar programs around the country conducted by the General Accounting Office noted that:

*"The programs subscribe to the philosophy that requiring industry to set goals for pollution prevention will make company officials aware of the advantages of pollution prevention . . . . The inherent advantages of pollution prevention include cost savings, avoidance of burdens and regulations associated with obtaining environmental permits, and improvement in a company's public image."*<sup>2</sup>

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<sup>2</sup> POLLUTION PREVENTION: EPA Should Reexamine the Objectives and Sustainability of State Programs, United States General Accounting Office, GAO/PEMD-94-8, January 1994, p. 19.

The plans are comprehensive documents, with statute detailing a long listing of items that must be addressed. Included are analyses of current practices, specific waste reduction opportunities and impediments to implementation. In a survey conducted by one of Ecology's regional offices, the median number of hours reported by facilities as being spent in plan preparation was 100.

The plans themselves are not public records; companies have the option of only submitting an executive summary of the plan to the department. The department *may* review any plan or summary (note that it is not required) to determine its adequacy. A determination of adequacy, however, can only be based on whether it was completed in accordance with statutory requirements; it can not be based on a qualitative review of the plan.

The plans cover a five-year period. At the end of that time, they are required to be updated. Annual progress reports, which must include a description of the progress made toward achieving the facilities' goals, are required. The program was phased in in what were referred to as "waves," with the largest generators being required to submit their plans in 1992, and smaller or new generators in the years thereafter.

## HOW THE PLANNING FEE IS IMPLEMENTED

The annual planning fee is calculated each year using a formula that is based on the reported amounts of: 1) dangerous wastes; 2) extremely hazardous wastes (which are multiplied by a factor of ten to compensate for a greater risk to the environment); and 3) toxic emissions.<sup>3</sup> Combined, these equal the total amount of "risk pounds."

A specific rate per risk pound is then calculated by the department, taking into consideration statutory limits on the maximum amount of revenue that can be obtained and the maximum individual fee. This rate per risk pound, which in 1994 was \$0.013, is then applied to the number of pounds reported by each facility to determine the amount it will be billed (except for statutory limits).<sup>4</sup>

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Fee based  
on amount  
of wastes  
and toxic  
emissions

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<sup>3</sup> Reported amounts of dangerous waste and extremely hazardous waste are adjusted to exclude both waste which is recycled and wastewater which is discharged "under permit."

<sup>4</sup> The actual fee amount is sometimes adjusted after issuance of the bill, and discussions with the individual fee payer.



In 1994, there were 686 firms on the planning list. Exhibit 6 below provides an overview of those firms in terms of their fee status; that is, how many had their fees capped, how many were billed an amount that was not capped, and how many paid no fee. (The department has made a policy decision that it is not cost effective to try to collect fees that are below \$55.)

63 firms  
have their  
fee capped  
...

### Exhibit 6

#### Overview of Planning Firms By Fee Status

Category	Number	Total Fee Pounds (in tons)	Proportion of Total Fee Lbs.	Total Amount Billed
Entities whose fee is capped	63	10,436,557	99.806%	\$ 689,409
Entities whose fee is not capped	417	20,193	0.193%	\$ 510,138
Entities who pay no fee	206	53	0.001%	\$ -
<b>Total</b>	<b>686</b>	<b>10,456,803</b>	<b>100.000%</b>	<b>\$ 1,199,547</b>

Source: Department of Ecology data.

As can be seen, the data on planning facilities is also marked by a huge disparity in the amount of waste generated by the different firms who pay the fee. The disparity is actually greater than can be seen in Exhibit 6. The top four planning facilities, in terms of fee pounds, together account for 86 percent of the total fee pounds. The top ten facilities together account for 96 percent of the total.

... leading  
to dispari-  
ties in rates  
paid on a  
per-pound  
basis

There is a similar disparity in the actual rates billed on a per-risk pound basis, given the statutory maximum cap on annual fees. The 1994 rate of \$0.013 per risk pound is equivalent to \$130 per 10,000 pounds of waste. That is the amount which most firms are billed. Because of the fee cap, however, the comparable rate for the largest fee-pound facility is \$0.02. Rates for other capped facilities are shown in Exhibit 7.

**Exhibit 7****Actual Rates Billed To Planning Entities  
Per 10,000 Risk Pounds**

Actual Rate Billed to Planning Entities Per 10,000 "Risk-Pounds" of Waste	Number Billed This Amount	Actual Amount Billed in 1994	Total Billings
<b>Capped Firms</b>			
Less than \$1.00	9	\$10,943	\$98,487
From \$1.00 to \$10.00	17	\$10,943	\$186,031
From \$10.00 to \$50.00	17	\$10,943	\$186,031
From \$50.00 to \$100.00	12	\$10,943	\$131,316
From \$100.00 to \$130.00	8	\$10,943	\$87,544
<b>Non-Capped Firms</b>			
\$130.00	382	From \$56 to \$10,942	\$508,213
<b>Firms Generating &lt; 4,000 Risk Pounds</b>			
\$28.94 (average)	35	\$55	\$1,925
<b>Total</b>	<b>480</b>		<b>\$1,199,547</b>

Source: Department of Ecology data.

As shown above, the existence of the statutory cap on the maximum annual fee creates a situation in which there is an extreme disparity in the rates billed to planning facilities on a per pound basis

A final issue related to how the planning fee is implemented concerns the impact of hazardous substances used and toxic emissions versus hazardous wastes generated. Since facilities are not required to report the amount of substances used, that cannot be factored into the formula for determining total risk pounds. The amount of toxic emissions is reported, however, and is one of the three factors included. As noted earlier, however, the 4,000 pound threshold (under which firms pay an adjusted maximum fee of \$55) refers only to wastes generated.

This can lead to a substantial disparity in fees paid by otherwise similar companies, as shown in the following example, which reflects the actual figures on which the fees for two separate companies were based in 1994.

**Additional  
disparities  
relate to  
toxic  
emissions**

Key abbreviations:

DW = Dangerous waste

EHW = Extremely hazardous waste

TRI = Toxic Release Inventory emissions

	<u>Firm A</u>	<u>Firm B</u>
A. Net DW (in lbs.)	4,136	2,630
B. Net EHW (in lbs.)	2	1,288
C. Total DW + EHW	4,138	3,918
D. EHW x 10	20	12,880
E. TRI (in lbs.)	39,600	224,810
F. Total Risk Pounds (A+D+E)	43,756	240,320
G. Fee Rate (F x .013)	\$569	\$3,124
H. Actual Fee	\$569	\$55
I. Actual Rate Per 10,000 Lbs.	\$130.04	\$2.29

The only reason Firm B paid \$55 instead of \$3,124 is that its net amount of dangerous waste generated (line C) was 82 pounds less than the 4,000 pound threshold. Consequently, its level of TRI emissions was not factored into its rate at all. This also explains why, in Exhibit 7, the average actual rate paid by firms generating less than 4,000 pounds of dangerous waste is so low.

Based on our review of the data contained on the department's 1994 planning list, had the 4,000 pound threshold applied to both wastes generated *and* toxic emissions, instead of just the former:

- 53 firms that paid no fee would instead have been assessed a combined amount of \$39,386, and
- 36 firms that paid some fee, would have paid \$1,980 more than they did.

The total fiscal impact would have been approximately \$41,000. The overall revenue effect would likely be neutral, however, because some firms would have paid more while others would have paid less.

## CONCLUSIONS AND RECOMMENDATIONS

The extreme disparity in rates paid by planning facilities on a per pound basis is not necessarily problematic, since the purpose of the fee is to cover the department's cost of administering the planning program.

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Overall  
revenue  
effect of  
change  
would be  
neutral

Unfortunately, however, program staff could not provide any insight into whether the amount of staff resources typically devoted to different sized firms is at all proportionate to the fees they pay. Consequently, it is unknown whether facilities paying a smaller fee are being "subsidized" by the larger facilities, or whether the larger facilities—because their waste problems might be far more complex—might be getting more assistance than they are actually paying for.

To our knowledge, the \$10,000 fee limit was selected arbitrarily. Currently, there is insufficient information to assess whether it is a fair amount or not.

Program staff to whom we spoke indicated that to the best of their knowledge, basing the 4,000 pound threshold on the amount of wastes generated *only* was inadvertent. Apparently, the provision was not discovered until the legislation had passed, and the department was in the process of developing rules and regulations to implement it. No programmatic reasons could be offered as to why the threshold should be limited in this way.

Given the disparity caused by basing the threshold on the amount of waste generated only, and the fact that there appears to be no justification for doing so, we believe statute should be amended accordingly.

#### *Recommendation 4*

*The department should conduct an internal assessment to determine if the current fee limit is sufficient to cover the costs associated with providing services to those firms that pay the capped fee. If it finds that it is not, the department should propose legislation for the 1996 Legislature to increase the fee limit to an appropriate level.*

#### *Recommendation 5*

*RCW 70.95E.030 should be amended so that the 4,000 pound threshold applies both to the amount of hazardous wastes generated and the amount of toxic emissions, either separately or in combination.*

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Unknown if services provided are proportionate to fees paid

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Toxic emissions should be included in threshold levels

## PROGRAM REVENUES AND RESOURCE NEEDS

The amount of planning fee revenues is shown below by fiscal year. Note that because fee collection cycles cross fiscal year lines, the revenues collected in a given year do not represent the amount collected from a specific fee billing.

<u>FY91</u>	<u>FY92</u>	<u>FY93</u>	<u>FY94</u>	<u>FY95</u> (est)
\$303,931	\$755,189	\$1,400,771	\$846,303	\$1,250,331

### Statutory restrictions on use and amount of revenue

Statute places two basic restrictions on these revenues. The first is that they are only to be used for planning related activities. The revenues, however, are combined with those from the education fee in the Hazardous Waste Assistance Account. The program has no system in place to track planning fee related expenditures separately.

The second statutory restriction is that total revenues cannot exceed the department's cost of implementing the program, or \$1 million per year, adjusted for inflation. At the beginning of this study, however, the program had no formal listing of its overall resource needs. Instead, its formula for calculating the fee rate, and thus the amount of revenue is predicated upon obtaining the maximum \$1 million figure.

We attempted to estimate the program's resource needs by identifying the types of activities that need to be performed, and estimating the amount of time and the frequency necessary for each. At our request, program staff reviewed our model and submitted their own revised version. In general, their time requirement figures were higher than those we had used, and they included other activities and staffing needs as well. Although they did not identify specific revenue needs, they did indicate those needs were greater than the level of funding provided through the planning fee.

## CONCLUSIONS AND RECOMMENDATION

Because planning fee revenues are combined with education fee revenues, and because the program does not track planning related

expenditures separately, there is no way to ensure that the statutory restriction on using fee revenues only for planning purposes is being adhered to.

It is also unknown whether the second statutory restriction is being complied with; that is, that total fee revenues not exceed the cost of implementing the program. In our opinion, the total resource and corresponding revenue needs for the program have not been clearly identified or justified.

The resource requirements estimate provided by the program was obviously done quickly, in response to our request to the department for its perspective. Although we appreciate their timeliness and responsiveness, we believe a more rigorous assessment of program requirements is warranted in order to ensure statutory requirements are being adhered to.

#### *Recommendation 6*

*The department should develop a formal and itemized listing or inventory of resource needs for the planning program, that takes into consideration fluctuations resulting from changes in the number of plans being developed and submitted each year.*

## PROGRAM EFFECTIVENESS AND MONITORING

**Compliance With Planning Requirements:** Compliance with the planning requirements ultimately appears to be quite good, although it is not necessarily timely. As of the end of 1994, 96 percent of firms in Waves 1 and 2 had submitted a plan which was determined to be adequate (this was 28 months after the Wave 1 due date, and 16 months after the Wave 2 due date). Only 50 percent of Wave 3 firms had an approved plan by this date, however, which was 4 months after their assigned due date.

**Waste Reduction Goals:** We calculated percentage reductions goals for all Wave 1 and 2 facilities, for which baseline "waste generation" data was available (41 percent of Wave 1 firms, and 91

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Unknown if  
restrictions  
being  
adhered to

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High level  
of  
compliance  
with  
planning  
requirements

percent of Wave 2 firms).<sup>5</sup> For these 228 firms, the combined totals were as follows:

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Median  
waste  
reduction  
goal: 32  
percent

201,297,910	total pounds of baseline waste generated
61,806,375	reduction goals, in pounds
30.7%	total reduction goal for all 228 firms combined
32.4%	median reduction goal for all 228 firms

Thirty-five percent of the planning firms set waste reduction goals of 50 percent or more, while 27 percent of the firms set reduction goals of 10 percent or less. While these goals are laudable, they obviously fall far short of the overall statutory goal of a 50 percent reduction in the amount of waste generated.

**Other Views of Program Effectiveness:** The department's Northwest Regional Office has sent a survey to every firm that has had their plan approved as adequate, asking them about their perceptions of the program. It has received approximately 90 responses to date. The first, and perhaps most important question was "How useful overall was the planning process for your business?" Responses have been as follows:

5	4	3	2	1
<u>very</u>		<u>somewhat</u>		<u>not at all</u>
10.3%	40.2%	27.6%	17.2%	5.7%

---

Program and  
staff viewed  
positively

We also conducted a telephone survey of ten planning firms that we selected at random (nine surveys were successfully completed).<sup>6</sup> The responses were generally quite positive.

Six of the respondents reported finding the process helpful; the only one who definitely didn't, still made highly positive comments regarding department staff. Seven reported having made reductions

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<sup>5</sup> Ecology maintains data only on each planning firm's numeric goals; e.g., "10,000 pounds." In order to calculate percentage reductions, data on the baseline amount of waste is required, which had to be obtained from a separate data file.

<sup>6</sup> Initially, every 48th firm was selected from a list of planning firms that had been ranked by the amount of planning fee (firms that did not pay a fee were not included). Firms selected were adjusted only to achieve balance by planning wave and region, private versus public status, and in just one instance, willingness to participate.

in their amount of waste. Had it not been for the planning requirements, most indicated their reductions either wouldn't have occurred at all, or as expeditiously as they did, or to the extent that they did. In a number of cases, respondents voluntarily offered glowing comments regarding Ecology staff, and the assistance they received.

**Program Monitoring:** The program compiles data on the waste reduction goals planning firms include in their plans, as well as the amount of actual reductions they report in their annual progress reports as having been made. This information has been reported in the program's own Annual Report to the legislature, and in combination with separately reported data on the amount of wastes generated, used to draw conclusions as to the overall progress achieved in reaching the 50 percent reduction goal.

In our view, however, the data is too "soft" to support any firm conclusions as to the program's overall effectiveness. Reporting requirements are not particularly stringent (presumably because of the program's reliance on voluntary compliance). Goal data, for example, has not been reported in a consistent format over the years. The data compiled by the program appears to be particularly unreliable for firms in the first planning wave, which includes most of the largest generators in the state. Additionally, baseline waste generation data used by the department in its comparisons is derived from a different data source, and includes a different "universe of facilities."

We also note that in addition to setting planning goals for, and reporting progress related to, the reduction of hazardous waste, planning firms are also required to do the same thing for the amount of substances used, the amount of wastes recycled and the amount of wastes treated. According to the department, however, no baseline data exists for any of these areas. Consequently, there is no way to gauge the extent of improvement that might be occurring.

It should be kept in mind that the overall state goal, as well as the individual goals established by businesses in their plans, are based only on a pound-for-pound percentage reduction. The department's monitoring activities are similarly focused. This does not take into consideration differences in the toxicity levels of various wastes. Because these levels can vary substantially, this type of monitoring provides only a very gross measure of program impact.

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Data too  
"soft" to  
support  
firm  
conclusions

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Monitoring  
activities do  
not  
consider  
toxicity  
levels



Although it might be possible to implement a monitoring system that took into consideration differences in toxicity levels, it would require far more specific information on the exact chemical composition of the waste than is currently available (or required to be reported).

## CONCLUSION

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Unlikely to  
meet 50  
percent  
waste  
reduction  
goal

Based on the information available, it appears that some amount of progress is being made in reducing the amount of hazardous waste generated. However, given the goals established by the planning firms—laudable as they may be—it seems doubtful that this program, by itself, will succeed in meeting the state's 50 percent reduction goal. That may argue either for intensifying waste reduction efforts, or for establishing a more realistic goal. Such a determination is beyond the scope of this report.

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# SCOPE AND OBJECTIVES

## Appendix 1

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### *SCOPE*

This mandated study entails a review of the hazardous waste fees provided for in Chapter 70.95E RCW, including the activities funded by those fees.

### *OBJECTIVES*

1. To assess the extent to which fees are equitably assessed, and to which the fee structure promotes statutory and/or programmatic objectives.
2. To review the allocation of fee revenues, including administrative costs and processes, and issues of equity.
3. To review, and to the extent possible, assess program impact and/or outcomes.
4. To determine whether the fees themselves or other programmatic features duplicate other federal, state, or local programs, and/or requirements.

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# AGENCY RESPONSE

## Appendix 2

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- Department of Ecology



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600  
(206) 407-6000 • TDD Only (Hearing Impaired) (206) 407-6006

August 2, 1995

RECEIVED

AUG - 3 1995

LEGISLATIVE  
BUDGET COMM

Ms. Cheryle A. Broom  
Legislative Auditor  
Legislative Budget Committee  
Post Office Box 40910  
Olympia, WA 98501-2323

Dear Ms. Broom:

We have received the preliminary report of the Hazardous Waste Fees Study prepared by staff of the Legislative Budget Committee. As requested, a formal response to the recommendations in the report is enclosed.

We appreciate the efforts of your staff to fairly and accurately portray the fee program. The results of the study will be beneficial to us as we continue to pursue an effective and efficient pollution prevention program.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Mary Riveland".

Mary Riveland  
Director

MR:nh  
Enclosure

## HAZARDOUS WASTE FEES STUDY FORMAL RESPONSE

RECOMMENDATION	AGENCY POSITION	COMMENTS
1.	Concurs	
2.	Concurs	
3.	Partially Concurs	Ecology will continue to track activities funded by education fee revenue, and will attempt to document the recipients of these services to the extent feasible. Many of the technical assistance activities are broad-based in terms of their application across multiple industry sectors. The cost effectiveness of linking all services to fee payers becomes problematic.
4.	Concurs	
5.	Partially Concurs	As noted in the study, the fiscal impact of \$41,000 is in reality a neutral impact because of the fee cap. Ecology recognizes the disparity in the law and will evaluate the feasibility of seeking a legislative change.
6.	Concurs	
7. <i>Auditor's Note:</i>  <i>This recommendation has been deleted.</i>	Does Not Concur	The type of system recommended is untested and untried. Its complexity would place a significantly greater reporting burden, and therefore cost, on generators. It would also create the need for revisions to a just-completed waste information data collection and management system. We are reluctant to spend scarce resources to study a system that does not appear to be practical to implement. Ecology is involved in other efforts to evaluate current programs and to seek ways to push the results of our pollution prevention efforts even higher.